

**ACUTA**

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Association of  
College & University  
Telecommunications  
Administrators

May 6, 1996

Federal Communications Commission  
Office of the Secretary  
1919 M Street, N.W., Room 222  
Washington, DC 20554

**Reference: RM No. 8775**

Honorable Members of the Commission:

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The Association of College and University Telecommunications Administrators (ACUTA) is the professional association representing managers of telecommunications services on over 800 college and university campuses. Our members are responsible for providing voice, data and video communications services to the students, faculty and staff of higher education institutions. These services include both the provision of traditional voice communications via the public switched network, and the provision of Internet access. For this reason, we would appreciate the Commission's consideration of the following comments regarding the above-referenced petition.

ACUTA believes that the issues raised in the ACTA petition are complex, and do not lend themselves to simple answers. However, we also believe that there is a need for the Commission to clarify the regulatory status of voice communication devices (hardware and software) that use the Internet as their transmission method, in order to give critical guidance to the manufacturers, users, and the entire telecommunications industry. Regardless of our agreement or disagreement with various points in the ACTA petition, we are pleased that it is serving to move the discussion forward on a matter of importance to the higher education community.

It is clear that many aspects of the ACTA petition are based on a desire to protect the economic interests of the telecommunications carriers. However, it is not the function or responsibility of the Commission to safeguard the economic well-being of any segment of the telecommunications industry or any other special interest group. The Commission must confine its actions to the protection of the public, consistent with the statutes enacted over the years by Congress, which created and gave various authorities to the Commission.

However, setting aside any economic considerations, it is also clear that regulation of voice communications via the Internet is within the purview of authority granted to the Commission under existing law.

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We base this position on the statute quoted in the ACTA petition, 47 U.S.C., Section 151, relating to the creation of the Commission, which states (in part): [... for the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all people in the United States a rapid, efficient, nation-wide and world-wide wire and radio communication service....through the use of wire and radio communication...]

Clearly, Internet phone service does make use of wire communications, and can be used for interstate and foreign communications.

It is also clear that the Internet phone service falls within the definition of “telecommunications” and “telecommunications service” contained in the Telecommunications Act of 1996. We would call your attention to two specific sections of the Act, also referenced in the ACTA petition:

(48) Telecommunications. The term “telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

and

(51) Telecommunications Service. The term “telecommunications service” means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. (Emphasis added.)

Further, it can be argued that FCC oversight of this emerging use of technology is consistent with the consumer protection responsibilities of the Commission. Under current payment structures for Internet access, use of the Internet for telephone communications permits the avoidance of local, state and federal taxes and fees that are used for the provision of universal service and other public service purposes.

In addition, the Commission enforces many other consumer protection laws and regulations, all of which are issues to be considered in determining whether to regulate Internet phones. These include, but are not limited to, the following:

- Implementation of the Americans with Disabilities Act
- Hearing Aid Compatibility
- Caller ID
- Prohibitions against the use of telecommunications facilities for illegal activities, such as obscene or indecent communications, etc.
- 911 and E911 service

The fact that it is clearly within the purview of the Commission to regulate Internet phones does not mean that voice communication via the Internet can or should be regulated and tarified in precisely the same manner as traditional telephone communication. We believe it is incumbent upon the Commission to consider the many issues that make this technology unique, when considering a regulatory process and structure. We would like to identify a number of these issues here, although we are not suggesting solutions or taking positions on them at this time. These issues include:

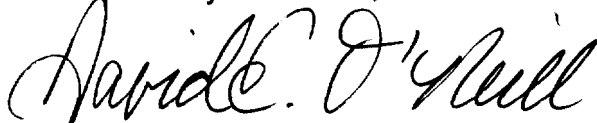
- The Internet is a testing ground for multimedia communications (voice, video and data) in packet form. This research and testing is essential to the future of communications technology, which is moving in the direction of packet transmission. We suggest that any regulatory framework must not interfere with the research and testing process.
- The term, "free phone call" as used in the ACTA petition is not strictly correct. Although there is no "per minute" charge based on usage, the user pays for the software, hardware, and Internet connection. In addition, funding is necessary in order to maintain and expand the network, which is an absolute necessity, because we know that Internet usage will continue to expand exponentially. If this funding is to come from the private sector, there must be a financial incentive to do so.
- Therefore, it follows that if voice communication via the Internet is to become a viable communication service, a means of billing for this service must be addressed. Options include pay-per-view, pay-per-call, pay-per-minute, pay-per-packet, and others. From a consumer protection viewpoint, it may make sense that billing methods be consistent, regardless of the supplier, in much the same way that traditional telecommunications carriers have been regulated.
- Currently, Internet phone technology requires that both parties have the same computer software and appropriate hardware to complete the call. However, it is conceivable that future developments will allow for Internet phone calls from a computer to a regular telephone. Any regulatory action by the FCC should consider the regulatory and billing implications of the computer-to-phone call that is completed via a connection to the public switched network.
- Although protection of the financial well-being of telecommunications carriers is not the Commission's primary concern, a healthy telecommunications industry contributes to the overall health of the U.S. and global economies. If there is a significant drop-off in revenues, funds will not be available for investment in maintaining and upgrading the telecommunications infrastructure in this country and abroad. We urge the Commission to move cautiously in this area, to allow the industry to adjust to changes in its basic funding sources.

- Finally, we hope the Commission recognizes that a substantial portion of the funds used by colleges and universities to construct on-campus networks for voice, data and video communications currently comes from long distance revenues. The very growth of the vast Internet resources available on college campuses: distance learning via broadcast and the Internet, networked libraries, computer access to research databases, university connections to elementary and secondary schools, and such basic and essential communications tools as electronic mail are all partially funded by long distance revenues. Without long distance revenues, the funds for infrastructure upgrades necessary to support increased traffic on the Internet would likely have to come from taxpayers (in the case of public institutions) or through increased student tuition. While we recognize and accept the inevitability of change in how these funds are generated, we urge the Commission to consider the impact on higher education of a decision to allow Internet voice communication to proceed unregulated.

As the voice of telecommunications in higher education, we urge the Commission to begin an in-depth examination of these issues through a rulemaking process encompassing input from a broad spectrum of the telecommunications industry, Internet experts, and users. We suggest that the Commission consider the formation of a negotiated rulemaking committee, similar to the process used to develop a consensus on the Hearing Aid Compatibility matter earlier this year. This is a complex matter, and we believe that it is important to provide a forum for the expression of a wide array of viewpoints on this issue.

ACUTA appreciates the opportunity to submit comments to the Commission on the many important issues raised in the ACTA petition."

Respectfully submitted,

A handwritten signature in black ink, reading "David E. O'Neill". The signature is fluid and cursive, with the first name "David" and last name "O'Neill" clearly distinguishable.

David E. O'Neill  
President

cc: Wanda Harris, Common Carrier Bureau  
ITS, Inc.